

POLLEN & COLGATE.

[To accompany bill H. R. No. 521.]

JULY 5, 1842.

Mr. KENNEDY, of Maryland, from the Committee on Commerce, submitted the following

REPORT :

The Committee on Commerce, to which was referred the petition of George P. Pollen and Robert Colgate, report :

That the said petitioners, George P. Pollen and Robert Colgate, by their petition, bearing date the 23d January, 1840, set forth that, on or about the 1st of October, 1839, they entered at the custom-house of the city of New York 118 cases of glass ware, which had been imported by them from Antwerp, 12 of which cases were ordered by the collector of the port to the appraisers' store for examination, and the remainder were suffered to remain in the possession of the petitioners, upon their executing to the collector a penal bond, which was upon the condition that, if the goods so sent to the appraisers' store should be found to correspond with the invoice, then the same was to be void ; but if otherwise, then the cases of goods so remaining with the petitioners should be delivered up to the collector, upon his requisition, and, in default thereof, resort would be had to the said penal bond. That, at the time of executing the said penal bond, the petitioners also gave a bond to the collector for the payment of the duties on the said goods, which amounted to the sum of \$1,126 30, and that they have paid on account of the said bond the sum of \$563 15, being one-half of the said duties. That, on the 5th day of October, 1839, being but four days after the entry of said goods and the execution of the said penal and duty bonds as aforesaid, they received from the collector, J. Hoyt, an order bearing date October 5, 1839, requiring them to produce and deposite forthwith, in the public store No. 17 Nassau street, such of the packages not already there, referred to in their entry by the ship [barque] Lucretia, from Antwerp, and which packages are marked as follows : ^{S N} _{P C}, or, in default thereof, resort would be had to their penal bond for that entry.

The said petitioners further state that the goods so remaining in their possession as aforesaid were destroyed by fire on the 6th instant, (on the 6th of October, 1839 ;) that, although the goods remained in the storehouse of the petitioners, they were, nevertheless, under the control and subject to the order of the collector at any time, whenever he thought proper to require the petitioners to produce and deposite them in the public store, as the above-mentioned requisition of the collector clearly shows. The petitioners

further allege that the goods so remaining in the custody of the collector, and under his control, were not and could not be insured by the petitioners, the property not being vested in them. They further state that cases similar to the one now presented by them have heretofore been presented to Congress, and have met with a favorable result to the applicants. The petitioners ask to be relieved from the further payment of the balance due on their bond for the duties of said goods, and that the collector be directed to refund them the amount which they have already paid on account of said duties, and to be relieved from the penalty of the penal bond executed by them to the collector as aforesaid.

Your committee further report, that the statement of the petitioners, as to the entry of the 118 cases of glass ware at the custom-house of New York, that 12 of the cases were ordered by the collector to the public store, and that the remaining 112 cases were allowed to remain in the custody of the petitioners on the execution of the penal bond above mentioned. That the collector did, on the 5th of October, address a note to them, requiring them to deposit in the public store the 112 packages remaining in their custody, is confirmed by a letter from J. Hoyt, collector of the port of New York, addressed to Messrs. Pollen & Colgate, bearing date the 31st December, 1839, in which he further states that, in reply to his note requiring the 112 packages in the possession of the petitioners to be sent to the public store, he received from the petitioners a note, bearing date the 7th of October, 1839, informing him that the whole of said goods referred to in his note, marked **SN** **PC**, with the exception of twelve cases at the public store, were destroyed by fire on the morning of the 6th of October, 1839, having been stored in the store No. 191 Water street. The said letter of J. Hoyt further states "that the duties on the whole 118 cases amounted to \$1,126 30, which you [meaning Pollen & Colgate] secured by bonds, one-half payable in three and the other half in six months, and that the first bond was paid on the 26th instant, (26th December, 1839,) viz: \$563 30. I never entertained any doubt of the destruction of the property referred to, and I did not insist upon your complying with the terms of my requisition of the 5th October, because I understood and believed that the property was not insured, and, as the duty was secured on the invoice value, I thought proper to permit the proceeding to stop."

Your committee further report that, by the affidavit of Chillion Ashmead, jr., that he "attended to the entry at the custom-house in the city of New York of 118 cases of glass ware, consigned to Messrs. Pollen & Colgate, per ship *Lucretia*, from Antwerp, 106 of said cases were taken into the store No. 191 Water street, and destroyed by fire on the morning of the 6th of October, 1839; and that the said cases of glass ware, when so destroyed by fire, were in the original packages, and in the same condition as when received from the aforesaid vessel."

That it appears by the certificate of Edward Curtis, collector of the port of New York, bearing date "Collector's Office, New York, June 4, 1842," that "Pollen & Colgate have paid the sum of \$1,126 30 (the amount of two bonds—one of \$563, and the other of \$563 30,) for duties on 118 cases of glass ware by the *Lucretia*, from Antwerp, in 1839." That it also appears by the certificate of Edward Curtis, collector of the port of New York, dated "Collector's Office, May 5, 1842," that "the duties paid by Pollen & Colgate upon 106 cases of glass imported in the barque *Lucretia*, from Antwerp, arrived at this port 26th September, 1839, and which

106 cases were destroyed by fire, amounted to \$1,017 30. The entry was for 118 cases, of which twelve were saved from the fire."

Your committee further report that, in consideration that the 106 packages of glass ware above mentioned were destroyed by fire while under the control and subject to the order of the collector of the port of New York, by which the said petitioners, the consignees thereof, were prevented from disposing of the same, or of exercising the rights of consignees in relation to the same, being under a bond to deliver them to the collector on his requisition, the goods contained in said packages never entered into the consumption of the country, and that they were destroyed in the original packages in which they were imported. Your committee are of opinion that the said petitioners have an equitable claim to relief by being released from the performance of the condition of the bond executed by them to the collector of the port of New York, conditioned that the said 106 packages left in their possession should be delivered to the said collector upon his requisition, and by the cancelment of said bond, and also that the duties paid by them on the said 106 packages of glass ware, destroyed by fire as aforesaid, be remitted, and that the sum of \$1,017 30, actually paid by them to the collector of the port of New York for duties on the 106 packages of glass ware last mentioned, be refunded and paid to them; and therefore report a bill for the relief of said petitioners.

